

## Public Health Service, HHS

## § 54a.5

and technical assistance activities, such as cooperative agreements for technical assistance centers, that do not provide substance abuse services to clients. This part implements the provisions of 42 U.S.C. 300x-65 and 42 U.S.C. 290kk, *et seq.*

### § 54a.2 Definitions.

(a) *Applicable program* means the programs authorized under Title V of the PHS Act, 42 U.S.C. 290aa, *et seq.*, for the provision of substance abuse prevention and or treatment services.

(b) *Religious organization* means a nonprofit religious organization.

(c) *Program beneficiary* means an individual who receives substance abuse services under a program funded in whole or in part by applicable programs.

(d) *Program participant* means a public or private entity that has received financial assistance under an applicable program.

(e) *SAMHSA* means the Substance Abuse and Mental Health Services Administration.

(f) *SAMHSA Charitable Choice* provisions means the provisions of 42 U.S.C. 300x-65 and 42 U.S.C. 290kk, *et seq.*

(g) *Direct funding* or *Funds provided directly* means funding that is provided to an organization directly by a governmental entity or intermediate organization that has the same duties under this part as a governmental entity, as opposed to funding that an organization receives as the result of the genuine and independent private choice of a beneficiary through a voucher, certificate, coupon, or other similar mechanism.

### § 54a.3 Nondiscrimination against religious organizations.

(a) Religious organizations are eligible, on the same basis as any other organization, to participate in applicable programs as long as their services are provided consistent with the Establishment Clause and the Free Exercise Clause of the First Amendment to the United States Constitution. Except as provided herein or in the SAMHSA Charitable Choice provisions, nothing in these regulations shall restrict the ability of the Federal government, or a State or local government, from apply-

ing to religious organizations the same eligibility conditions in applicable programs as are applied to any other nonprofit private organization.

(b) Neither the Federal government nor a State or local government receiving funds under these programs shall discriminate against an organization that is, or applies to be, a program participant on the basis of the organization's religious character or affiliation.

### § 54a.4 Religious activities.

No funds provided directly from SAMHSA or the relevant State or local government to organizations participating in applicable programs may be expended for inherently religious activities, such as worship, religious instruction, or proselytization. If an organization conducts such activities, it must offer them separately, in time or location, from the programs or services for which it receives funds directly from SAMHSA or the relevant State or local government under any applicable program, and participation must be voluntary for the program beneficiaries.

### § 54a.5 Religious character and independence.

A religious organization that participates in an applicable program will retain its independence from Federal, State, and local governments and may continue to carry out its mission, including the definition, practice and expression of its religious beliefs. The organization may not expend funds that it receives directly from SAMHSA or the relevant State or local government to support any inherently religious activities, such as worship, religious instruction, or proselytization. Among other things, faith-based organizations may use space in their facilities to provide services supported by applicable programs, without removing religious art, icons, scriptures, or other symbols. In addition, a SAMHSA-funded religious organization retains the authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.